

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Case No.

In re:

§ Chapter 11

**RADNOR HOLDINGS
CORPORATION, *et al.*,**

§ Case No. 06-10894-(PJW)
§ Jointly Administered
Adv. Pro. 06-50909

Debtors.

卷之三

THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF RADNOR
HOLDINGS CORPORATION, *et al.*,

Appellants,

卷之三

V.

TENNENBAUM CAPITAL PARTNERS, LLC,
et al.,

Appellees.

卷之三

**MOTION TO EXPEDITE BANKRUPTCY APPEAL
TO AVOID MOOTNESS BY SALE OF PROPERTY**

Appellant, the Official Committee of Unsecured Creditors (the “Committee”) of Radnor Holdings Corp. and certain of its affiliates (collectively, the “Debtors” or “Radnor”), moves the Court, pursuant to Rules 2 and 27 of the Federal Rules of Appellate Procedure, for an order expediting this appeal and setting a briefing schedule for this appeal of the November 16, 2006 Judgment In Favor of Defendants On All Counts (the “Judgment”) entered by the United States Bankruptcy Court for the District of Delaware, upon terms that comport with the interests of justice.

1. On this day, November 20, 2006, the Committee filed, on an expedited basis, its appeal to this Court of the Bankruptcy Court's November 16 Final Judgment. A copy of the Notice of Appeal is appended to this motion. The Committee will be filing its brief of appellant forthwith.

2. Pursuant to the Judgment, an auction of the Debtors' property commenced at 9:00 a.m. E.T. on this day, November 20, 2006, and was continued to 5:00 p.m. E.T. on this day, November 20, 2006. The sale hearing and closing is presently scheduled for tomorrow, November 21, 2006.

3. The Committee has moved on an emergency basis in both the Bankruptcy Court and this Court for a stay pending appeal and short extension of the auction and sale schedule to avoid the likelihood that the Committee's appeal will be rendered moot.

4. The Committee's appeal will raise legal issues that are pivotal to the Bankruptcy Court's decision to allow a \$128 million proof of claim by appellees Tennenbaum Capital Partners, LLC, *et al.* (collectively "Tennenbaum"), thereby allowing Tennenbaum to credit bid at the imminent auction and sale of the Debtor's property. The undisputed evidence at trial established that the Debtors have been operating profitably in recent months and there is no reason to believe that the successful trend will not continue during an expedite appeal period.

5. The Committee's motion is filed in tandem with the Committee's motion for stay pending appeal, which contemplates an expedited appeal schedule, and is necessary to avoid the possibility that the appeal will be rendered moot, under 11 U.S.C. Section 363(m), by the auction and sale under the present schedule, leaving the Committee and its constituents, the unsecured creditors, without any appellate remedy.

6. The Court has the inherent authority under Rule 2 of the Federal Rules of Appellate Procedures to "order proceedings as it directs," and the advisory committee notes to Rule 2 elucidate the primary purpose of the Rule as being "to expedite the determination of cases of pressing concern to the public or to the litigants by prescribing a time schedule other than as provided by the rules."

7. The dire circumstances confronting the Committee with the imminent auction and sale presents a compelling call upon the Court to resolve the issues of scheduling the appeal. *See, e.g., Arthur v. Manch*, 12 F.3d 377, 380 (2d Cir. 1993) (case rendered moot by events occurring after appeal).

WHEREFORE, appellant respectfully requests the Court to expedite this appeal -- to avoid it being rendered moot by the occurrence of the auction and sale scheduled for closing on November 21, 2006 -- and to grant such other and further relief as shall be deemed appropriate.

Dated: Wilmington, Delaware
November ___, 2006

GREENBERG TRAURIG, LLP



Donald J. Detwiler (I.D. No 3087)
Victoria W. Counihan (I.D. No 3488)
The Nemours Building
1007 North Orange Street, Suite 1200
Wilmington, Delaware 19801
Telephone: 302-661-7667
Fax: 302-661-7360

- and -

Francis A. Citera
Nancy A. Peterman
Nancy A. Mitchell
77 West Wacker Drive, Suite 2500
Chicago, IL 60601
Telephone: 312-456-8400
Fax: 312-456-8435

COUNSEL TO THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

The Official Committee of Unsecured Creditors of Radnor Holdings Corporation, et al.,

DEFENDANTS

Tennenbaum Capital Partners, LLC; Special Value Expansion Fund, LLC; Special Value Opportunities Fund, LLC; and Jose E. Feliciano

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed _____ (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Donald J. Detweiler, Esq.
Victoria W. Counihan, Esq.
Greenberg Traurig, LLP
1007 North Orange Street, Suite 1200
Wilmington DE 19801
302-661-7000

Attorneys (If Known)
Mark D. Collins, Esq.
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
302-651-7700

Nancy A. Peterman, Esq.
Francis A. Citera, Esq.
Greenberg Traurig, LLP
77 West Wacker Drive, Suite 2500
Chicago IL 60601
312-456-8400

Kenneth Ostrow, Esq.
Gregory A. Bray, Esq.
Milbank, Tweed, Hadley & McCloy LLP
601 South Figueroa Street, 30th Floor
Los Angeles, CA 90017-5735
213-892-4000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input checked="" type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 690 Other		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 390 Other Personal Injury			<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> PERSONAL PROPERTY	<input type="checkbox"/> 441 Voting			<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence			<input type="checkbox"/> 875 Customer Challenge
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 530 General	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 12 USC 3410
	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 890 Other Statutory Actions
	<input type="checkbox"/> 445 Amer. w/Disabilities Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
	<input type="checkbox"/> 446 Amer. w/Disabilities Other	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
	<input type="checkbox"/> 440 Other Civil Rights			<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
					<input type="checkbox"/> 894 Energy Allocation Act
					<input type="checkbox"/> 895 Freedom of Information Act
					<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
					<input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 871 IRS—Third Party	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	26 USC 7609	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 790 Other Labor Litigation		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<input type="checkbox"/> 740 Railway Labor Act		
			<input type="checkbox"/> 790 Other Labor Litigation		
		</td			

VIII. RELATED CASE(S)

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE

11/20/06

SIGNATURE OF ATTORNEY OF RECORD

/s/ Victoria W. Counihan

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b.) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a) Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.